

AGENCY 20. ~~DEPARTMENT~~ AGENCY OF AGRICULTURE, FOOD AND  
MARKETS  
SUB-AGENCY 031. PLANT INDUSTRY ~~DIVISION~~ SECTION  
CHAPTER 009. REGULATIONS RELATING TO THE INSPECTION OF  
NURSERIES

CVR 20-031-009 (2012)

20 031 009. Regulations Relating to the Inspection of Nurseries

SEC. I. STATUTORY AUTHORITY.

~~The Commissioner of Agriculture is authorized by 6 V.S.A. § 4029 to promulgate regulations regarding the inspection of nurseries and nursery stock and to control the collection, sale or distribution of nursery stock and plants taken from the wild.~~

This rule is established by the Agency of Agriculture, Food and Markets under the authority granted to the Secretary at 6 V.S.A., Chapter 206, 'Nursery Inspection', and 6 V.S.A., § 1 (a) (10), 'General powers of agency; secretary of agriculture, food and markets'.

SEC. II. DEFINITIONS

1. "Agency" means the Vermont Agency of Agriculture, Food and Markets.

~~1.~~ 2. "Approved facsimile" means a card, placard or certificate, issued or approved by the commissioner, Secretary identifying the holder, stock, or shipment as properly licensed or certified by the department Agency pursuant to 6 V.S.A. Chapter 206 and these regulations.

~~2.~~ 3. "Collecting" means cutting, gathering, rooting, severing, injuring, destroying, removing or carrying away any plants taken from the wild, or parts thereof, for the purpose of selling or offering for sale.

~~2a. "Collecting Wild Ginseng" means cutting, gathering, rooting, severing, injuring, destroying, removing, or carrying away any wild ginseng plants, or parts thereof.~~

~~3. "Commissioner" means the commissioner of agriculture or his or her designee.~~

~~4. "Cultivated ginseng" means ginseng growing in prepared beds under the shade of artificial structures, transplanted from its original location, or manipulated by horticultural practices.~~

~~5. "Department" means the Vermont Department of Agriculture.~~

~~6. "Foreign ginseng" means ginseng not originating from within the borders of the State of~~

Vermont.

~~7. "Ginseng" means the roots in whole, in part, or in any form, of American Ginseng (*Panax quinquefolius*).~~

~~8. "Ginseng Collector" means a person who collects ginseng.~~

~~9. "Ginseng Collector's Permit" means the permit issued by the Commissioner which enables a person to collect wild ginseng within this state between August 20 and October 10 of a given year when done in accordance with 6 V.S.A. Chapter 206 and these regulations.~~

~~10. "Ginseng Dealer" means any person engaged in the business of buying ginseng roots from collectors of wild ginseng for the purpose of resale to other ginseng dealers, exporters, or to any person who sells ginseng in any form in interstate commerce.~~

~~11. "Ginseng Dealer's Permit" means the permit issued by the Commissioner which enables a person to act as a ginseng dealer within this state when done in accordance with 6 V.S.A. Chapter 206 and these regulations~~

~~12. "Green ginseng" means a ginseng root from which the moisture has not been removed by drying.~~

~~13. 4. "Nursery" means all lands, premises and buildings on or in which nursery stock is grown, transported, or offered for sale.~~

~~14. 5. "Nursery dealer" means any person who buys, sells, or distributes nursery stock for commercial gain.~~

6. "Nursery grower" means any person engaged in growing, propagating, or production of nursery stock for commercial gain.

7. "Nursery license" means the license issued to nursery dealers or nursery growers under 6 V.S.A., section 4024.

~~15. 8. "Nursery stock" means all woody or herbaceous shrubs, trees, plants and vines, including bulbs and rhizomes as well as buds, grafts, scions and other parts capable of propagation whether wild, cultivated or grown under artificial covering or artificial conditions. This definition does not include cut flowers or seeds.~~

~~16. 9. "Operate a nursery" means to conduct, for commercial gain, any or all of the activities associated with the preparation, sale or installation of nursery stock. Such activities include, but are not limited to, planting, cultivation, transportation, installation, treatment or display of nursery stock, and removal from the wild of plants with the intention of commercial gain.~~

~~17. 10. "Person" means any individual, partnership, corporation or other business entity~~  
entity.

11. "Secretary" means the Secretary of the Agency of Agriculture, Food and Markets or his or her designee.

18. ~~"Wild Ginseng" means ginseng growing, living or found in a natural state.~~

SEC. III. LICENSES AND CERTIFICATES ISSUED BY THE VERMONT ~~AGENCY~~ 20.  
~~DEPARTMENT~~ AGENCY OF AGRICULTURE.

1. Nursery Dealer's License.

(a) Every nursery dealer or grower, as defined in Section II 14. of these ~~regulations~~ rules and 6 V.S.A § 4021, who purchases, sells or installs nursery stock in this state shall annually apply for and receive a nursery ~~dealer's~~ license from the ~~commissioner~~ Secretary, on forms provided by the Secretary. It shall be a violation of the provisions of these ~~regulations~~ rules to operate a nursery without having been issued such license.

Nursery dealer's licenses shall be valid for one year, from May 1 to April 30, inclusive.

(1) Nursery License Fee.

(A) A nursery dealer licensed under these rules and 6 V.S.A. § 4024 shall pay the following for a license:

(i) \$50.00, if the nursery owns or controls:

(a) a nursery of one-half acre or more;

(b) greenhouse space of 25,000 square feet or more; or

(c) retail space of 25,000 square feet or more.

(ii) \$20.00 for all other nursery dealers.

(B) A person selling \$1,000.00 or less of nursery stock in a calendar year shall be exempt from the requirement to obtain a license under this section.

(b) Any person soliciting orders for, or selling, delivering or installing nursery stock shall have in his or her possession his or her nursery dealer's license or that of the nursery on whose behalf such activities are conducted. For the purposes of this subsection, the following approved facsimiles shall be acceptable:

~~(1)~~ (i) a legible photocopy or other exact reproduction of the license;

~~(2)~~ (ii) a card, approved as to form by the ~~commissioner~~ Secretary, containing the nursery dealer's name, address, license number and expiration date; or

~~(3)~~ (iii) the appearance on a receipt, packing ticket, way bill, manifest or other documentation normally presented or available to the customer, of the nursery dealer's name, address, license number and expiration date.

(c) Shipments of nursery stock accompanied by a valid certificate of inspection, as required by 6 V.S.A. Section 4025 and Section III 2. of these regulations, shall be exempt from the requirements of Subsection 1. (b) of this section.

(d) Any person who has been issued a certificate of inspection under 6 V.S.A. Section 4023 and Section III 2. of these regulations shall automatically be issued a nursery dealer's license.

## 2. Nursery Inspection Certificate.

~~(a) Every person who operates a nursery within the meaning of Section II 16. of these regulations shall be inspected at least once, but not more than three times, each year by the commissioner. If the commissioner finds the nursery and nursery stock to be apparently free from pests and diseases, he or she shall issue to that nursery a nursery inspection certificate. The secretary, as he or she deems necessary, may inspect nursery stock in the possession of a nursery grower or nursery dealer licensed under this rule or any place within the state where nursery stock is grown, collected, stored, sold, offered for sale, or distributed. After the inspection of a licensed nursery grower or nursery dealer, the secretary may issue an inspection certificate.~~ The certificate shall be valid from the date of issuance through ~~December 31 of the calendar year in which it was issued,~~ April 30 of the year following issuance, so long as the ~~commissioner~~ Secretary does not rescind, suspend, amend or revoke it pursuant to Section IV of these regulations.

~~(b) The commissioner, in his or her discretion, may charge a fee for any inspection conducted under the provisions of 6 V.S.A. Chapter 206 or these regulations. The commissioner may take into account any or all of the following factors in computing the amount of the fee to be charged:~~

~~(1) the number of inspections required to certify a given nursery;~~

~~(2) the reasons or conditions which relate to prior inspections and degree of compliance with orders and recommendations pursuant to prior inspections;~~

~~(3) the number of department personnel involved in the inspection;~~

~~(4) the number of work hours and mileage involved;~~

~~(5) the cost of equipment, materials, sampling and laboratory work;~~

~~(6) the difficulty or complexity of the inspection; and~~

~~(7) any other expenses incurred by the commissioner which are directly related to the inspection.~~ The Secretary shall charge a fee for any inspection of a nursery grower or nursery dealer that is not licensed under Section III (a) (1) of these rules. The Secretary shall charge a fee for an inspection of a nursery dealer or nursery grower licensed under section III (a) (1) of these rules, provided that the initial inspection of a licensed nursery grower or nursery dealer in any calendar year shall be at no cost. The amount of the inspection fee shall be the same fee as that charged for a nursery dealer's license as required by Section III (a) (1) of these rules. The secretary shall not charge an inspection fee when responding to consumer complaints or for technical assistance under 6 V.S.A. § 1036 for the management of plant pests, as that term is defined at 6 V.S.A. § 1030.

### 3. Special Certification.

(a) ~~The commissioner~~ Secretary may issue a certificate certifying that nursery stock has been grown under special conditions or has been tested by a recognized procedure which has established that stock as being free from any or all of the following diseases, pests or conditions:

(1) certain viruses, fungi, bacteria or other organisms;

(2) specific diseases or deficiencies; or

(3) any other conditions which require, in the opinion of the ~~commissioner~~ Secretary, special certification.

(b) ~~The commissioner~~ Secretary may assess growers who request this additional or special certification a fee for the inspection and/or certification. This fee shall not be greater than is necessary, in the judgment of the ~~commissioner~~ Secretary, to meet all expenses incurred in making the inspection and/or certification. ~~The commissioner may take into account any or all of the factors listed in Section III 2. (b) of these regulations in computing the amount of the fee.~~

## SEC. IV. POWERS OF THE ~~COMMISSIONER~~ SECRETARY.

### 1. Suspension or revocation of licenses and certificates.

(a) ~~The commissioner~~ Secretary may amend, suspend or revoke any license or certificate issued under the authority of 6 V.S.A. Chapter 206 and these ~~regulations~~ rules for failure of the holder to comply with any of the provisions of that chapter or the ~~regulations~~ rules promulgated thereunder.

(b) In the event the ~~commissioner~~ Secretary has reason to believe that the activities or conditions of any person or facility licensed or certificated under the authority of 6 V.S.A. Chapter 206 or the ~~regulations~~ rules promulgated thereunder may pose an immediate and substantial threat to human or animal life or health, to the environment, or to other nursery dealers, he or she may suspend any license or certificate pending inquiry, for no longer than

fifteen (15) days, providing that opportunity for a hearing is given prior to the end of such period. If the person affected by such suspension cannot attend a hearing within that fifteen day period, the suspension shall remain in effect until the date of such hearing. Following a hearing, if the ~~commissioner~~ Secretary determines that reinstatement of the suspended license or certificate might pose a threat to human or animal life or health, to the environment, or to other nursery dealers, the ~~commissioner~~ Secretary may issue an order continuing the suspension until such time as the problem is corrected, or may revoke or amend the license or certificate in question.

## 2. Placement Of Restrictions, Requirements Or Conditions Upon Licenses Or Certificates.

(a) The ~~commissioner~~ Secretary may place reasonable restrictions, conditions or requirements upon any license or certificate issued under the authority of 6 V.S.A. Chapter 206 or these ~~regulations~~ rules. The ~~commissioner~~ Secretary may take any or all of the following into consideration when imposing such restrictions, conditions or requirements:

- (1) previous history of pest and disease conditions at a given facility;
- (2) degree of compliance of persons or facilities with prior orders or recommendations;
- (3) potential for physical or economic harm resulting from any activity or condition;
- (4) proximity of the nursery or nursery stock in question to human or animal habitation, environmentally sensitive areas, sensitive plant populations or other nursery dealers or nursery stock; or
- (5) any other conditions which the ~~commissioner~~ Secretary considers to be significant.

## 3. Stop-Sale Orders.

(a) The ~~commissioner~~ Secretary, upon finding injurious insects or other pests or plant diseases present in a nursery or in nursery stock, may issue a stop-sale order against such plants. Plants placed on stop-sale shall be conspicuously tagged, either individually or in blocks, provided that such infested stock is clearly separable from non-infested stock, and that such physical separation is effected and maintained. Any issuance of a stop-sale order shall be confirmed in writing by the ~~commissioner~~ Secretary within seven days. Such confirmation shall state the following:

- ~~(1)~~ (i) the reason for the issuance of the stop-sale order;
- ~~(2)~~ (ii) a description of the nursery stock placed on stop sale;
- ~~(3)~~ (iii) recommended control measures, if any; and
- ~~(4)~~ (iv) the date upon which such order became effective.

(b) Stop-sale tags may not be removed from nursery stock except by written permission of the ~~commissioner~~ Secretary or upon disposal of the infested stock in a manner acceptable to or authorized by the ~~commissioner~~ Secretary.

(c) It shall be a violation of this section to sell, install or otherwise distribute nursery stock which has been placed on stop sale.

(d) The ~~commissioner~~ Secretary may restrict or restrain the transportation of any nursery stock which has been placed on stop-sale, or may prescribe conditions under which such nursery stock may be transported.

#### 4. Treatment Or Destruction Of Infested Plants.

(a) If, upon inspection of a nursery or any nursery stock, the ~~commissioner~~ Secretary finds any diseased or infested stock, he or she may order the plants, either individually or in blocks, to be:

~~(1)~~ (i) placed on stop sale in accordance with Section IV 3. of these ~~regulations~~ rules;

~~(2)~~ (ii) treated in a particular manner; or

~~(3)~~ (iii) destroyed according to the ~~commissioner's~~ Secretary's instructions.

#### 5. Entry Onto Business Premises By ~~Commissioner~~ Secretary.

(a) The ~~commissioner~~ Secretary, in furtherance of his or her duties under 6 V.S.A. Chapter 206 or the ~~regulations~~ rules promulgated thereunder, may enter the business premises of any person licensed or certificated under that chapter and regulations for the purposes of inspecting nursery stock, facilities, equipment or business records, or to take samples as may be required. Such entry onto business premises shall be made during normal business hours, or at other times for which the ~~commissioner~~ Secretary may make arrangements.

#### 6. Reciprocal Issuance Of Licenses And Certificates.

(a) The ~~commissioner~~ Secretary may enter into reciprocal agreements with officials of other states and federal agencies, and may grant licenses and certificates on a reciprocal basis, provided that:

~~(1)~~ (i) Certification and licensing standards are substantially the same as those required by Vermont;

~~(2)~~ (ii) The person licensed or certificated knows and abides by Vermont's nursery inspection law and ~~regulations~~ rules;

~~(3)~~ (iii) The person or facility licensed or certificated pays any and all applicable fees; and

~~(4)~~ (iv) The person or facility is properly licensed by a state which has a reciprocal agreement with Vermont.

(b) Revocation or suspension of any certificate or license by the state or federal authority which originally issued such certificate or license shall result in the immediate suspension of the reciprocally-issued certificate or license pending investigation by the ~~commissioner~~ Secretary. Reinstatement of the certificate or license by the state or federal authority which revoked or suspended it shall effect reinstatement of the reciprocally-issued certificate or license.

## 7. Additional Powers.

(a) In addition to the authority conferred by these ~~regulations~~ rules, the powers of the ~~commissioner~~ Secretary include all statutory authority vested in the ~~commissioner~~ Secretary, now and in the future, to enforce state nursery inspection laws and ~~regulations~~ rules.

## SEC. V. TRANSPORTATION OF NURSERY STOCK.

### 1. Shipment of Nursery Stock Grown Within Vermont.

(a) Whenever a nursery dealer ships or delivers any nursery stock grown within this state, he or she shall include with each shipment a copy of the inspection certificate issued by the ~~commissioner~~ Secretary, or a reasonable facsimile which satisfies the requirements of Section III (1) (b) of these ~~regulations~~ rules. Such certificate or facsimile shall state that the nursery has been inspected and approved as required by 6 V.S.A. Chapter 206 and these ~~regulations~~ rules, and that the nursery stock is believed to be free from injurious pests or plant diseases.

(b) Each shipment transported or caused to be transported without proper certification, as required by Subsection 1. (a) of this section shall be deemed to be a separate violation.

### 2. Transportation Of Nursery Stock Into Vermont For Sale.

(a) Nursery stock transported into this state for sale, distribution or installation shall be accompanied by a valid certificate of inspection or a reasonable facsimile, or other certification accepted by the ~~commissioner~~ Secretary, from the state from which the consignment comes or from a United States Government inspector, stating that the nursery stock is believed to be free of injurious pests or plant diseases. The certificate shall contain the name and mailing address of the consignor.

(b) The ~~commissioner~~ Secretary may accept inclusion of the consignor on a list of certified nursery dealers compiled by the state in which the shipment originates as certification under this section, provided that the shipment is identified by the name and mailing address of the consignor and a statement that the consignor is currently included on such list.



## SEC. VI. DISEASED OR INFESTED STOCK.

### 1. Nursery Inspection.

(a) Only sound, healthy nursery stock which will maintain its vigor shall be offered for sale, distribution or installation in this state. Whenever the ~~commissioner~~ Secretary has reason to believe that any nursery in the state has introduced, installed, sold or offered for sale diseased or infested stock, the commissioner shall inspect that nursery. If, upon inspection, the ~~commissioner~~ Secretary finds any diseased or infested stock, he or she may order the plants, either individually or in blocks, to be

~~(1)~~ (i) put on stop sale;

~~(2)~~ (ii) treated in a particular manner; or

~~(3)~~ (iii) destroyed according to the ~~commissioner's~~ Secretary's instructions.

### 2. Ginseng Collectors.

~~(a) No person shall collect wild ginseng without first obtaining a permit to do so from the Commissioner.~~

~~(b) Collectors are responsible for obtaining permission to collect wild ginseng on property owned by other persons other than themselves.~~

~~(c) Any collector who enters ginseng directly into interstate commerce shall be considered a ginseng dealer under Section II.~~

~~(d) Upon application of the appropriate form, which contains all requested information, the Commissioner may issue a Ginseng Collector's Permit. Any such permit shall be valid only from August 20 to October 10 for three consecutive years from, and including, the year of issuance. It shall further provide that any ginseng root collected must be certified by the Commissioner before March 31, of the year after collection. The Commissioner may refuse to grant, suspend, or revoke any collector's permit for any violation of 6 V.S.A. Chapter 206 or these regulations.~~

### 3. Certification of Roots.

~~(a) All ginseng roots intended for export from Vermont shall be certified on or before March 31 of the year after collection by the Commissioner before shipment on forms provided by the Department. Certification shall include weight of shipment. Inspection of roots to verify maturity shall be made at this time. Roots without crown or neck portion may not be certified unless age can be determined.~~

~~(b) Ginseng may not be imported into Vermont without first being certified by the state of origin.~~

~~(c) The Commissioner may seize any uncertified ginseng not found to be in compliance with subsection 1 or 2 of this Section.~~

#### ~~4. Ginseng Dealers~~

~~(a) Permit—Any ginseng dealer who buys wild or cultivated ginseng in Vermont shall obtain a Ginseng Dealer's Permit from the Commissioner. This permit shall be valid for a period of three years.~~

~~(b) Records—All ginseng dealers shall keep records, on forms furnished or approved by the Department, of all commerce in ginseng. These records will include date of transaction, month collected, county where collected, weight of ginseng bought or sold, seller's permit number, and signature of seller. These records shall be kept for a period of three years and shall be made available to the Department upon request.~~

#### 2. Appeals.

(a) Any person issued any order under 6 V.S.A. Section 4027 (a) or under Subsection 1. of this section may appeal that order to the ~~commissioner~~ Secretary within 15 days after receiving that order. The appeal shall be made in writing and shall state any grounds and designate the plants or stock subject to the order.

### SEC. VII. QUARANTINES.

#### 1. State Quarantines.

~~(a)~~ State quarantine regulations on the following are effective on all nursery stock and shall apply to the quarantine-regulated areas and restrictions of the USDA Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs:

~~(1) (i) Gypsy moth; and~~

~~(2) (i) Scleroderris;~~

(ii) Pine Shoot Beetle;

(iii) Hemlock Woolly Adelgid; and

(iv) Noxious Weeds.

#### 2. Federal Quarantines.

Federal (USDA) quarantine regulations on the following are effective on all nursery stock originating in Vermont, and apply to all of Vermont:

(i) Gypsy Moth;

(ii) Japanese Beetle; and

(iii) Pine Shoot Beetle.

## Section IX. SPECIAL CERTIFICATION REQUIREMENTS FOR DECIDUOUS FRUIT TREES, SMALL FRUIT PLANTS AND NURSERY STOCK

### 1. Definitions

(a) "Foundation block" means an isolated planting of registered nursery stock maintained to serve as the primary source of propagating material for participating nurserymen.

(b) "Nuclear block" means a planting of virus-indexed trees, small fruit plants or nursery stock, maintained and continuously protected from virus reinfection in a screenhouse, screened greenhouse or tissue culture to serve as a source of propagating material for the foundation block.

(c) "Nursery increase block" means a planting of nursery stock, originating from registered seed and scion sources, used for increasing registered plants.

(d) "Index" means testing a plant for virus infection by means of inoculation from the plant to be tested to an indicator plant or by other standard immunological technique.

(e) "Indicator plant" means any woody or herbaceous plant used for detecting virus.

(f) "Off-type" means different from the variety or cultivar listed on the application for registration or certification.

(g) "Registered nursery stock" means a plant used as a propagation or seed source that has a history of negative virus indexing and inspection by an approved state or federal agency or commercial facilities.

(h) "Scion block" means a planting of registered nursery stock maintained by a commercial ~~nurseryman~~ nursery grower to serve as a source of propagating material.

(i) "Seed block" means a planting of registered nursery stock maintained by a commercial ~~nurseryman~~ nursery grower to serve as a seed source.

(j) "Virus-infected" means presence of a virus(es) in a plant or plant part.

(k) "Virus-like" means a disorder of unknown cause displaying symptoms which are possibly due to virus infection.

### 2. Requirements

(a) Application for Special Certification shall be made to the ~~commissioner~~ Secretary on or

before February 1 of each calendar year. Participation in this program shall be voluntary and may be withdrawn at the option of the applicant.

(b) The applicant shall be responsible, subject to approval by the ~~Department~~ Agency, for the selection of the location and proper maintenance of registered plantings being grown under the provisions of this program. The applicant shall be responsible for maintaining the identity of all nursery stock entered in this program in a manner approved by the ~~Department~~ Agency.

(c) Location of plantings

~~(1)~~ (i) Each planting location shall be subject to approval by the ~~Department~~ Agency and shall be in an area having minimal risks for spread of infectious pests by drainage, flooding, irrigation or any other means.

~~(2)~~ (ii) A scion block shall be located not less than 300 feet from any nonregistered plant of the same genera. Volunteer or wild plants of the same genera within 500 feet (~~further~~ greater, if practical) shall be eradicated. Broad leaf weed control programs must minimize their occurrence within the block.

~~(3)~~ (iii) The sources of the scion block nursery stock shall have originated from the foundation block or nuclear block maintained by state or federal agencies or approved commercial facilities.

### 3. Certification Procedures

(a) Nursery Stock being grown for "Vermont Premium" certification shall consist of rootstocks and scions originating from foundation blocks. Plants will be tested for those viruses where techniques have been established.

(b) Nursery stock being grown for "Vermont Select" shall consist of plants produced from registered scion block and nonregistered seed sources; or have only had virus-testing on a few viruses known to infect specific nursery stock.

(c) All special certified nursery stock must have been produced in artificial soil, pasteurized soil, or on soils that received a preplant nematicide or were sampled by an approved agency prior to planting and found to be free from virus vector nematodes.

(d) All nursery stock meeting the requirements of this program when sold shall have the variety and or interstock and rootstock designated where applicable.

### 4. Establishment and Maintenance of Plantings

(a) Plantings entered in this program shall be kept in a thrifty growing condition and pests shall be effectively controlled. Suitable precautions shall be taken in cultivation, irrigation, movement and use of equipment, and in other farming practices to guard against spread of

soil-borne pests to plants entered in this program.

## 5. Eligibility

(a) Any kind or variety of deciduous fruit tree, small fruit plant or other nursery stock, when approved by the ~~Department~~ Agency, is eligible for entry into this program as provided in this outline. To be acceptable for certification or to be eligible for any planting entered in this program, a plant shall have been tested and not found to be virus-infected or off type.

## 6. Inspection and Testing Procedures

(a) Inspection and sampling of nursery stock shall be done under the supervision of the ~~Department~~ Agency.

(b) Testing of plant material shall be done by Universities or businesses approved by the ~~Department~~ Agency. Approved labs shall use Immunological tests, Genetic Assays ~~or~~, Indexing, or Molecular procedures to test for viruses known to occur in the Northeast. Results of tests shall be sent directly to the ~~Department~~ Agency of Agriculture with copy to applicant.

## 7. Tagging and Identity

(a) Tagging - The ~~Department~~ Agency will authorize the use of official tags for the identification of nursery stock or seed that meet the requirements of this program.

(b) Identity - Any person selling Vermont special certified nursery stock is responsible for the identity of the stock bearing each tag and for such nursery stock meeting requirements. Persons issued tags authorized by the program shall account for stock produced and sold and keep records as may be necessary.

## 8. Refusal, Suspension or Cancellation of Registration or Certification

(a) Registration or certification may be refused, suspended or cancelled for any plants in part or all of a planting if:

~~(1)~~ (i) The requirements of these regulations have not been met.

~~(2)~~ (ii) The plant is found to be virus-infected or off-type including but not limited to differences caused by disorders of genetic origin.

~~(3)~~ (iii) A registered plant is found virus infected and it is determined that plants propagated from it also are liable to be infected.

~~(4)~~ (iv) Any violation of the Vermont Nursery Statute or any section of these ~~regulations~~ rules.

~~(5)~~ (v) For any reason the identity of a plant becomes uncertain or has not been properly maintained.

~~(6)~~ (vi) Failure to have a ~~Department~~ Agency approved virus testing facility conduct testing.

#### SEC. X. PENALTIES.

Pursuant to 6 V.S.A. § 4029, any person who violates any provision of 6 V.S.A. Chapter 206 or the ~~regulations~~ rules promulgated thereunder shall be fined not more than \$ 100.00 for the first offense and not more than \$ 500.00 for each subsequent offense. In addition, the ~~Commissioner~~ Secretary may seek and obtain preliminary and permanent injunctive relief for any violation of the provisions of 6 V.S.A. Chapter 206 or the regulations promulgated thereunder, and administrative penalties as specified in 6 V.S.A., Chapter 1, Section 15.

Statutory Authority: 6 V.S.A. § 4029

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